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29 records of value adjustment boards, board attorneys
 30 and special magistrates; providing for issuance of a
 31 notice of defects by the Department of Revenue to the
 32 value adjustment board and providing procedures for
 33 resolution of such notice of defects; amending s.
 34 194.034, F.S.; amending s. 194.035, F.S.; requiring
 35 special magistrates to be appointed by written
 36 contract; specifying certain conditions of such
 37 written contract; specifying training requirements for
 38 special magistrates; authorizing the appointment, by
 39 written contract, of review special magistrates,
 40 specifying certain conditions of such written
 41 contract; providing an appropriation; providing an
 42 effective date.

44 Be It Enacted by the Legislature of the State of Florida:

46 Section 1. Section 194.015, Florida Statutes, is amended
 47 to read:

48 194.015 Value adjustment board.—There is hereby created a
 49 value adjustment board for each county, which shall consist of
 50 one member ~~two members~~ of the governing body of the county as
 51 elected from the membership of the board of the ~~said~~ governing
 52 body, ~~one of whom shall be elected chairperson,~~ and one member
 53 of the school board as elected from the membership of the school
 54 board, ~~and~~ two citizen members, one of whom shall be appointed
 55 by the governing body of the county and must own homestead
 56 property within the county and one of whom must be appointed by

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57 | the school board and must own a business occupying commercial
 58 | space located within the school district, and one professional
 59 | member who shall be a resident of the county. The clerk of the
 60 | value adjustment board shall appoint the professional member and
 61 | shall annually notify eligible individuals or their professional
 62 | associations to make them aware that opportunities to serve as a
 63 | professional member exist. The professional member or the board
 64 | clerk shall select and the board clerk shall appoint an
 65 | alternate professional member to serve when necessary in place
 66 | of the professional member. The professional member and the
 67 | alternate professional member shall be a member of the Florida
 68 | Bar, a Florida certified public accountant under chapter 473, or
 69 | a Florida certified general appraiser under chapter 475, part
 70 | II. A professional member or a citizen member shall ~~may~~ not be a
 71 | member or an employee of any taxing authority, and shall ~~may~~ not
 72 | be a person who represents a party ~~property owners~~ in any
 73 | administrative or judicial review of property taxes. Members of
 74 | the value adjustment board shall elect a chairperson and an
 75 | alternate chairperson, each of whom shall be either a
 76 | professional member or a citizen member. The county governing
 77 | board and school board members of the value adjustment board may
 78 | be temporarily replaced by other members of the respective
 79 | boards on appointment by their respective chairpersons. Any
 80 | ~~Three~~ three members shall constitute a quorum of the board, except
 81 | that each quorum must include at least one member from either
 82 | the governing board or school board, at least one citizen
 83 | member, and at least one professional member. of said governing
 84 | ~~board, at least one member of the school board, and at least one~~

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85 | ~~citizen member and n~~ No meeting of the board shall take place
 86 | unless a quorum is present. Members of the board may receive
 87 | such per diem compensation as is allowed by law for state
 88 | employees if both bodies elect to allow such compensation. The
 89 | clerk of the governing body of the county shall be the clerk of
 90 | the value adjustment board. To ensure fair and consistent value
 91 | adjustment board proceedings, the board shall have oversight of
 92 | the board attorney, board clerk, any special magistrates, and a
 93 | review special magistrate and shall require written legal
 94 | justification for any advice provided by the board attorney. ~~The~~
 95 | ~~board shall appoint private counsel who has practiced law for~~
 96 | ~~over 5 years and who shall receive such compensation as may be~~
 97 | ~~established by the board. The private counsel may not represent~~
 98 | ~~the property appraiser, the tax collector, any taxing authority,~~
 99 | ~~or any property owner in any administrative or judicial review~~
 100 | ~~of property taxes. No meeting of the board shall take place~~
 101 | ~~unless counsel to the board is present. Two-fifths of the~~
 102 | ~~expenses of the board shall be borne by the district school~~
 103 | ~~board and three-fifths by the district county commission.~~

104 | Section 2. Section 194.017, Florida Statutes, is created
 105 | to read:

106 | 194.017 Value Adjustment Board Attorney.—

107 | (1) The value adjustment board shall select and appoint a
 108 | private board attorney, by written contract, who shall be a
 109 | member of the Florida Bar with no less than 5 years' experience
 110 | in the area of ad valorem taxation and shall complete the
 111 | department's value adjustment board training and pass the
 112 | corresponding training examination and shall do so annually. The

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113 | board attorney shall receive such compensation as may be
 114 | established by the board. Before appointing a board attorney as
 115 | its legal counsel, the board shall verify the qualifications of
 116 | the attorney. The board attorney shall not represent a property
 117 | appraiser, tax collector, taxing authority, or property taxpayer
 118 | in any administrative or judicial review of property taxes, in
 119 | any county, either during the same calendar period or during
 120 | administrative reviews for the same tax year and shall not have
 121 | done so in that county in the two year period preceding
 122 | appointment. The board attorney shall not be appointed and shall
 123 | not serve simultaneously as a special magistrate or review
 124 | special magistrate, in any county, either during the same
 125 | calendar period or during administrative reviews for the same
 126 | tax year. The board attorney may serve in multiple counties. No
 127 | meeting of the board may take place unless the board attorney is
 128 | present.

129 | (2) (a) The board attorney's duty shall be to support the
 130 | laws of the State of Florida and to support the board-related
 131 | activities necessary for promoting and maintaining a high level
 132 | of public trust in the value adjustment board process. Such
 133 | public trust requires ethical behavior, fairness, consistency,
 134 | competence, transparency, and uniform application of the law by
 135 | the board, special magistrates, review special magistrates,
 136 | board clerk, and board attorney. The board attorney shall adhere
 137 | to the ethics provisions in chapter 112, part III, the open
 138 | government provisions in section 286.011, the provisions on
 139 | taxpayer rights as referenced in section 192.0105, the
 140 | provisions of chapter 194, parts I and III and all other

141 applicable law.

142 (b) The board attorney shall not act as an advocate for a
 143 taxing authority and shall avoid any appearance of such
 144 advocacy. The board attorney's legal advice shall be based
 145 solely on the law and shall not be influenced by the amount of
 146 property tax involved in any petition or decision.

147 (3) (a) The board attorney shall advise and assist the
 148 board, board clerk, and special magistrates, including review
 149 special magistrates on all aspects of the value adjustment board
 150 process so that all board-related activities comply with law and
 151 promote a high level of public trust. If a board member, board
 152 clerk, or special magistrate does not timely follow the advice
 153 of the board attorney, the board attorney shall timely notify
 154 the department in writing and include the facts and law
 155 involved.

156 (b) The board attorney shall advise the board, board clerk,
 157 and special magistrates, including review special magistrates,
 158 on the existence and use of the department's uniform policies
 159 and procedures manual and accompanying documents, as well as the
 160 department's training materials. The board attorney shall advise
 161 the board on: public trust; the ethics provisions in chapter
 162 112, part III; the rights of taxpayers as referenced in section
 163 192.0105; the open government provisions in section 286.011; the
 164 provisions of chapter 194, parts I and III; the requirements for
 165 training and examinations; statutory criteria that apply to the
 166 issue under administrative review; the consideration of
 167 evidence; requirements for written decisions; requirements for
 168 consideration and adoption of recommended decisions; the

169 prohibition against the board or a special magistrate allowing
 170 the amount of property tax involved in any petition or decision
 171 to influence the proper outcome under the law; and all other
 172 applicable law.

173 (4) Verbal or written advice from the board attorney
 174 regarding any part of the value adjustment board process shall
 175 be transparent and be part of the public record.

176 (a)1. When a board member requests verbal or written advice
 177 from the board attorney regarding any part of the value
 178 adjustment board process, the attorney shall timely provide such
 179 legal advice. If a board member believes this legal advice to be
 180 in error, the board member shall immediately notify the board,
 181 board attorney, board clerk, and the department in writing and
 182 shall include facts and reasons that support this belief.

183 2. Any verbal or written advice from the board attorney to
 184 any board member, directly or indirectly, shall be noted on the
 185 next meeting agenda with documentation of the advice provided to
 186 each board member and made available to the public.

187 (b)1. When a special magistrate requests verbal or written
 188 legal advice from the board attorney regarding the special
 189 magistrate's duties, the board attorney shall timely provide
 190 such legal advice. If the special magistrate believes this legal
 191 advice to be in error, the special magistrate shall immediately
 192 notify the board, board attorney, board clerk, and the
 193 department in writing and shall include facts and reasons that
 194 support this belief.

195 2. Any verbal advice from the board attorney to any special
 196 magistrate or review special magistrate, must be described in

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197 writing by the special magistrate. Any written or verbal advice
 198 from the board attorney to any special magistrate or review
 199 special magistrate must be documented in every affected
 200 recommendation along with the steps taken by the special
 201 magistrate or review special magistrate in response to such
 202 advice.

203 (c) Any verbal or written advice from the board attorney to
 204 the board clerk or staff shall be noted on the next meeting
 205 agenda with documentation of the advice provided to each board
 206 member along with the steps taken by the board clerk or staff in
 207 response to such advice.

208 (5) A review special magistrate, as described in section
 209 194.035(2), may seek advice from the board attorney and, if so,
 210 the board attorney shall timely provide such advice. If a review
 211 special magistrate disagrees with the board attorney's advice,
 212 whether provided upon request or not, the review special
 213 magistrate shall proceed based on his or her own belief of the
 214 correct course of action, but shall immediately document in
 215 writing the facts, law, and reasons for the disagreement along
 216 with the course of action taken and shall immediately provide
 217 this documentation to the board, board attorney, board clerk,
 218 and the department.

219 (6) The board, board attorney, board clerk, and all special
 220 magistrates, including review special magistrates, shall ensure
 221 the complete and accurate keeping of all records pertaining to
 222 the value adjustment board process. Such records must include
 223 any and all written communication on subjects related to board
 224 activities between the board attorney and the following: any

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225 other board attorney, any property appraiser or staff, any
 226 property owner or representative, any attorney for a party, any
 227 special magistrate, any review special magistrates, a board
 228 member, the board clerk, or the department.

229 (7) (a) At the beginning of a petition hearing conducted by
 230 the board, the board attorney shall ensure that each board
 231 member has a copy of the statutory criteria that apply to the
 232 issue under administrative review and shall provide the advice
 233 and assistance necessary to ensure that each board member
 234 understands the proper use of the statutory criteria in
 235 considering the evidence. The board attorney shall clearly,
 236 completely, and timely answer any questions a board member may
 237 have regarding the evidence and such criteria.

238 (b) Before the beginning of a petition hearing conducted by
 239 a special magistrate, the board attorney shall ensure that the
 240 special magistrate has a copy of the statutory criteria that
 241 apply to the issue under administrative review and shall provide
 242 the advice and assistance necessary to ensure that the special
 243 magistrate understands the proper use of the statutory criteria
 244 in considering the evidence. The board attorney shall clearly,
 245 completely, and timely answer any questions a special magistrate
 246 may have regarding the evidence and such criteria.

247 (8) (a) The executed written contract between the value
 248 adjustment board and the board attorney shall extend for no more
 249 than the period of time necessary for the board to complete its
 250 duties in reviewing the original assessments of a single tax
 251 year.

252 (b) A value adjustment board may not use any contract to

253 appoint its board attorney unless such contract is in writing
 254 and specifies agreement between the board and the board attorney
 255 regarding the following elements:

256 1. The board attorney shall support and promote the board-
 257 related activities necessary for promoting and maintaining a
 258 high level of public trust in the value adjustment board
 259 process. In all board-related activities, the board attorney
 260 will conduct herself or himself in a manner that promotes such
 261 high level of public trust. Such public trust requires fairness,
 262 consistency, transparency, ethical behavior, competence, and
 263 uniform application of the law by the board attorney;

264 2. The board attorney shall not be an advocate for a taxing
 265 authority, but shall be an independent advocate for adherence by
 266 the board and special magistrates to the laws of the State of
 267 Florida including, but not limited to: the ethics provisions in
 268 chapter 112, part III; the rights of property taxpayers as
 269 referenced in section 192.0105; the open government provisions
 270 in section 286.011; and the provisions of chapter 194, parts I
 271 and III.

272 3. In all board-related activities, the board attorney
 273 shall adhere to the laws of the State of Florida including, but
 274 not limited to: the ethics provisions in chapter 112, part III;
 275 the rights of taxpayers as referenced in section 192.0105; the
 276 open government provisions in section 286.011; and the
 277 provisions of chapter 194, parts I and III. In performing the
 278 board attorney's duties, the board attorney's legal advice shall
 279 be based solely on the law and shall not be influenced by the
 280 amount of property tax involved in any petition or decision;

281 4. As necessary for compliance with law or when requested,
 282 the board attorney shall provide timely advice to board members,
 283 the board clerk, and to special magistrates, including review
 284 special magistrates, to ensure that all board-related activities
 285 meet all requirements of law. The board attorney shall advise
 286 the board and special magistrates, including review special
 287 magistrates, of the prohibition against the board or a special
 288 magistrate allowing the amount of property tax involved in any
 289 petition or decision to influence the proper outcome under the
 290 law;

291 5. The board attorney shall advise the board and special
 292 magistrates, including review special magistrates, on: public
 293 trust; the ethics provisions in chapter 112, part III; the
 294 rights of taxpayers as referenced in section 192.0105; the open
 295 government provisions in section 286.011; the provisions of
 296 chapter 194, parts I and III; the requirements for training and
 297 examinations; statutory criteria that apply to the issue under
 298 administrative review; the consideration of evidence;
 299 requirements for written decisions; requirements for
 300 consideration of recommended decisions; and all other applicable
 301 law;

302 6. The board attorney shall ensure the maintenance of
 303 complete and accurate records regarding any and all written
 304 communication on board-related subjects between the board
 305 attorney and the following persons: any other board attorney,
 306 any property appraiser or staff, any property owner or
 307 representative, any attorney for a party, any special
 308 magistrate, including a review special magistrate, a board

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309 member, the board clerk, or the department; and

310 7. All other elements necessary for the orderly and timely
 311 performance of board duties with adherence to all requirements
 312 of law, which elements must include duties, standards of
 313 conduct, and performance standards for the board attorney.

314 (9) Any information received by the department under this
 315 section must be considered by the department in its oversight
 316 and training role.

317 Section 3. Section 194.020, Florida Statutes, is created
 318 to read:

319 194.020 Requirements for Written Decisions.—

320 (1) To promote public trust in the value adjustment board
 321 process, the Legislature intends for the requirements of this
 322 section to facilitate the development of fair, lawful, and
 323 consistent written decisions by boards and special magistrates.
 324 There must be no substantial errors in the development of any
 325 written decision by a board or special magistrate.

326 (2) (a) For each petition, except if the petition is
 327 withdrawn by the petitioner or if the petition is acknowledged
 328 as correct by the property appraiser, the value adjustment board
 329 shall render a written final decision. If a special magistrate
 330 has been appointed, the board shall consider the written
 331 recommended decisions produced by the special magistrate. Each
 332 written final decision of the board must contain specific
 333 findings of fact and conclusions of law and must include
 334 specific reasons for upholding or overturning the determination
 335 of the property appraiser. All recommended and final decisions
 336 must meet the requirements of this section, ss. 194.021,

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337 194.301, and 194.3015, and other statutory criteria that apply
 338 to the issue under administrative review. Any substantial
 339 errors of fact or law in the development of a written
 340 recommended decision must be corrected before the board can
 341 adopt the recommended decision as final.

342 (b) For each petition considered by a special magistrate,
 343 except if the petition is withdrawn by the petitioner or if the
 344 petition is acknowledged as correct by the property appraiser,
 345 the special magistrate shall produce a written recommended
 346 decision for consideration by the board. Each written
 347 recommended decision must contain specific findings of fact and
 348 conclusions of law and must include specific reasons for
 349 upholding or overturning the determination of the property
 350 appraiser. Each written recommended decision must meet the same
 351 requirements provided in this section for the board's final
 352 decisions.

353 (3) The board attorney's or review special magistrate's
 354 advice relating to the facts involved in a petition or to
 355 applicable law, if in writing, shall be included in the record
 356 and documented within the findings of fact and conclusions of
 357 law in the written decisions of the board and special
 358 magistrates. If not in writing, such advice shall be documented
 359 within the findings of fact and conclusions of law in the
 360 written decision of the board and special magistrates.

361 (4) (a) 1. The findings of fact in a final decision must be
 362 based on the relevance and credibility of the evidence and must
 363 specifically identify the record evidence, or lack thereof, that
 364 relates to each of the statutory criteria that apply to the

365 issue under administrative review. The findings of fact must
 366 include logical reasoning that connects the record evidence with
 367 the findings and must support the conclusions of law.

368 2. Based on the evidence, the value adjustment board shall
 369 determine, and report as findings of fact in a written final
 370 decision, the following: each statutory criterion applied by the
 371 property appraiser, the reasons why each applied factor was
 372 applied, and how each applied factor was applied. The board
 373 shall also identify, and report as findings of fact, each
 374 statutory criterion not applied by the property appraiser and
 375 must determine and report the reasons why each such criterion
 376 was not applied by the property appraiser in developing the
 377 assessment.

378 3. The Legislature intends for the value adjustment board
 379 to disallow the creation of a special class of property
 380 consisting of property that is the subject of a board petition.
 381 Accordingly, in administrative reviews involving real property
 382 just value assessments, the board and special magistrates shall
 383 take administrative or judicial notice, on the board or special
 384 magistrate's own motion, of the property appraiser's adjustments
 385 to recorded selling prices or fair market value made under s.
 386 193.011(8), if any, and of the forms on which the property
 387 appraiser reports these adjustments under s. 192.001(18). The
 388 department shall make these completed and signed forms available
 389 on its website for the benefit of taxpayers, boards, and special
 390 magistrates. By these requirements, the Legislature intends for
 391 such form to be part of the record evidence in each board
 392 petition involving real property just value, regardless of

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393 whether the parties presented such form as evidence. The board
 394 and special magistrates shall deem any adjustment reported on
 395 such form, for the property group of which the petitioned
 396 property is part, as sufficient evidence to show an appraisal
 397 practice applied by the property appraiser to comparable real
 398 property within the same county as provided in subparagraph
 399 194.301(2)(a)3. For each petition involving real property just
 400 value, the board and special magistrates shall make a finding of
 401 fact identifying such appraisal practice applied by the property
 402 appraiser to comparable real property within the county.
 403 Additionally, for each petitioned real property parcel, the
 404 board and special magistrates shall make findings of fact on
 405 what the property appraiser actually did and did not do under s.
 406 193.011(8) in developing the original assessment. Where
 407 necessary for consistency with appraisal practices applied by
 408 the property appraiser to comparable real property within the
 409 county and to avoid the unauthorized creation of a special class
 410 of property, the board and special magistrates shall apply, in
 411 administrative reviews involving real property just value
 412 assessments, the same type of adjustments applied by the
 413 property appraiser under s. 193.011(8) and reported under s.
 414 192.001(18), in an amount that does not result in double-
 415 counting the adjustment. The department shall address this
 416 requirement in its value adjustment board training.

417 (b) The conclusions of law in a final decision must be
 418 stated in the terms of the legal criteria that apply to the
 419 issue under administrative review and must be logically
 420 connected to the findings of fact. The conclusions of law must

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421 be made in the statutory order of proof that applies to the
 422 issue under administrative review.

423 (c) The value adjustment board's reasons for its decisions
 424 must be expressed in findings of fact and conclusions of law and
 425 must be sufficiently detailed to enable the parties to
 426 understand the evidence, findings of fact, and law on which the
 427 decisions are based.

428 Section 4. Section 194.021, Florida Statutes, is created
 429 to read:

430 194.021 Consideration of Recommended Decisions.-

431 (1) A special magistrate shall not submit to the value
 432 adjustment board, and the board shall not adopt, any recommended
 433 decision that does not comply with ss. 194.020, 194.301, and
 434 194.3015, and with other statutory provisions that apply to the
 435 issue under administrative review.

436 (2) (a) In considering written recommended decisions before
 437 adoption, the board shall first determine whether each
 438 recommended decision meets the requirements of law. A review of
 439 the entire record is not required for this determination unless
 440 warranted under the circumstances. The board attorney or a
 441 review special magistrate shall assist the board in making such
 442 determination. Any issues brought to the board's attention shall
 443 be appropriately addressed before the board adopts any
 444 recommended decision.

445 (b) Any board member is authorized to review any
 446 recommended decision before adoption and to question, verbally
 447 or in writing the special magistrate, review special magistrate,
 448 or board attorney regarding the sufficiency of the recommended

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449 decision. The special magistrate, review special magistrate, or
 450 board attorney shall timely respond in writing to a board
 451 member's questions and concerns regarding a recommended
 452 decision. Any substantial errors of fact or law in the
 453 development of a written recommended decision must be corrected
 454 before the board can adopt the recommended decision as final.

455 (3) If the board properly determines that a recommended
 456 decision meets the requirements of law, the board shall adopt
 457 the recommended decision without further hearing.

458 (4) If the board determines that a recommended decision
 459 does not meet the requirements of law, the board shall not adopt
 460 such recommended decision and shall place in the petition record
 461 the reasons for such determination. The board attorney shall
 462 advise the board regarding further action and shall provide
 463 legal justification for the advice. The board shall take the
 464 steps necessary for producing a final decision that complies
 465 with law. The board may direct the original or a different
 466 special magistrate to produce a recommended decision that
 467 complies with law and that is based on, if necessary, a review
 468 of the entire record. If necessary, the board may direct the
 469 original or a different special magistrate to conduct a new
 470 hearing and then produce a written recommended decision that
 471 complies with law. The board shall retain any recommended
 472 decisions and all other records of actions taken under this
 473 section.

474 Section 5. Section 194.023, Florida Statutes, is created
 475 to read:

476 194.023 Value Adjustment Board Training; Examinations.—

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477 (1) The Department of Revenue shall annually develop and
 478 provide to the clerk of the value adjustment board a list of
 479 members of the Florida Bar who have completed the department's
 480 training for board attorneys and have passed the accompanying
 481 examination.

482 (2) (a) The department shall provide and conduct value
 483 adjustment board training for board attorneys and board special
 484 magistrates, including review special magistrates, at least once
 485 each state fiscal year. Such training shall emphasize ethics and
 486 public trust, procedures for administrative reviews,
 487 consideration of evidence, requirements for written decisions,
 488 consideration of recommended decisions, applicable law, and the
 489 department's standard measures of value, including the
 490 guidelines for real and tangible personal property. The training
 491 shall be open to the public. The department shall charge tuition
 492 fees to any person attending this training in an amount
 493 sufficient to fund the department's costs to conduct all aspects
 494 of the training. The department shall deposit the fees collected
 495 into the Certification Program Trust Fund pursuant to s.
 496 195.002(2).

497 (b) The legislative intent is for the department's training
 498 to inform boards, the board attorney, and special magistrates,
 499 including review special magistrates, of the law and other
 500 information necessary for conducting board-related activities in
 501 accordance with law and public trust. The training materials
 502 will consist of any content designated by the department from
 503 time to time as being part of the training, including, but not
 504 limited to, any training update bulletins or other advisory

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505 communication. The training materials shall include the
 506 department's observations, explanations, examples, and
 507 recommendations for the purpose of assisting boards, board
 508 attorneys, and special magistrates in performing their duties in
 509 accordance with law. The department's explanations and
 510 recommendations may include legal opinions. Boards, board
 511 attorneys, and special magistrates shall comply with law and the
 512 department's training must inform boards, board attorneys, and
 513 special magistrates, including review special magistrates, of
 514 the actions the department believes must be taken or avoided for
 515 compliance with law. The department's training materials must
 516 include a checklist or worksheet of requirements necessary for
 517 fair, lawful, and consistent written decisions.

518 (3) (a) Each fiscal year, the department shall make
 519 available a value adjustment board training examination for the
 520 board attorney. The board attorney shall annually complete all
 521 portions of the department's value adjustment board training and
 522 shall annually take and pass the accompanying training
 523 examination.

524 (b)1. Each fiscal year, the department shall make available
 525 a value adjustment board training examination for each of the
 526 three types of special magistrates specified in s. 194.035(1).
 527 Each special magistrate shall annually complete the applicable
 528 portions of the department's value adjustment board training and
 529 shall annually take and pass the accompanying training
 530 examination.

531 2. Each review special magistrate shall annually complete
 532 the appropriate portions of the value adjustment board training

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533 | and annually take and pass the corresponding examinations. A
 534 | review special magistrate must complete the portions of the
 535 | training and pass the exams that correspond to the type of
 536 | special magistrate that produced the recommended decisions to be
 537 | reviewed by the review special magistrate. If a review special
 538 | magistrate is appointed to review recommended decisions
 539 | pertaining to all assessment types, then he or she shall
 540 | annually take all portions of the department's training and
 541 | shall take and pass the examinations for each of the three types
 542 | of special magistrates.

543 | (4) (a) A board member, board attorney, special magistrate,
 544 | or review special magistrate cannot disregard and must properly
 545 | consider the department's training materials. If a board special
 546 | magistrate, or review special magistrate, believes that a
 547 | portion of the training materials is contrary to law and should
 548 | not be followed, the board special magistrate, or review special
 549 | magistrate shall immediately request a legal opinion from the
 550 | board attorney. In response to this request, the board attorney
 551 | shall timely provide a written legal opinion that specifically:
 552 | identifies the portion of the training materials at issue;
 553 | describes the facts involved; cites and describes applicable
 554 | law; states whether the board attorney agrees or disagrees with
 555 | the training materials and provides reasons why; and provides
 556 | specific conclusions for resolving the matter. The board
 557 | attorney shall timely send a copy of this opinion to the
 558 | department.

559 | (b) If the board attorney concludes in his or her opinion
 560 | that a portion of the training materials is incorrect, the board

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561 attorney shall produce written recommended revisions that the
 562 board attorney believes would correct that portion of the
 563 training materials and timely send these revisions to the
 564 department. The department shall consider the board attorney's
 565 legal opinion and recommended revisions and evaluate whether a
 566 significant difference still exists between the department's
 567 training materials and the board attorney's legal opinion. The
 568 department shall notify the board in writing regarding the
 569 results of its evaluation and shall include appropriate
 570 recommendations which the board must properly consider.

571 (5) Any information received by the department under this
 572 section must be considered by the department in its oversight
 573 and training role.

574 (6) Chapter 120 does not apply to the training or its use
 575 and does not apply to this section.

576 Section 6. Section 194.025, Florida Statutes, is created
 577 to read:

578 194.025 Reviews: Notification of Defects.—

579 (1) The department is authorized to conduct reviews of the
 580 procedures, decisions, and records of value adjustment boards,
 581 board attorneys, special magistrates and review special
 582 magistrates. The purpose of these reviews is to evaluate
 583 adherence to law and to promote public trust, and the board,
 584 board attorney, board clerk, special magistrates, and review
 585 special magistrates shall cooperate with the department in these
 586 reviews. The department is entitled to receive from the board,
 587 upon written request and at no cost to the department, any
 588 records and information pertaining to the value adjustment board

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589 process.
 590 (2) (a) Upon evaluation of any reviews of the Department of
 591 Revenue under subsection (1), the executive director of the
 592 department, or his or her designee, shall issue a notice of
 593 defects to any value adjustment board where the executive
 594 director, or his or her designee, has determined that the board,
 595 board attorney, a special magistrate, or review special
 596 magistrate, has repeatedly failed to properly perform board
 597 duties in accordance with law. The executive director, or his
 598 or her designee, shall specify in his or her notice, the board
 599 duties that have not been properly performed, the type and
 600 extent of the defects, and the department's requirements for the
 601 board to obtain the department's approval of the performance of
 602 the board's duties.

603 (b) Not later than 20 days after receipt of a notice of
 604 defects, the value adjustment board shall either notify the
 605 executive director, or his or her designee, in writing of the
 606 board's intention to comply or request an immediate conference
 607 between the board chairperson, or his or her designee, and the
 608 executive director, or his or her designee, for the purpose of
 609 attempting to resolve differences between the value adjustment
 610 board and the executive director, or his or her designee. Such
 611 conference shall be held not later than 20 days after the
 612 department's receipt of the board's notification. Not later than
 613 15 days after the conclusion of the conference, and if the
 614 executive director, or his or her designee, finds that the
 615 differences have not been resolved, the executive director, or
 616 his or her designee, shall issue an administrative order, which

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617 order shall incorporate the corrective actions, if any, to be
 618 taken by the value adjustment board to ensure that all board
 619 duties are properly performed by the board, board attorney, any
 620 special magistrates, and any review special magistrate. The
 621 executive director, or his or her designee, shall also issue an
 622 administrative order in the case where a value adjustment board
 623 has stated its intention to comply.

624 (c) Not later than 20 days after receipt of an
 625 administrative order issued under this subsection, the value
 626 adjustment board shall notify the department of the board's
 627 intent to comply with the order or shall notify the department
 628 of the facts, law, and reasons for the board's intended non-
 629 compliance. The administrative order shall contain reasonable
 630 timeframes for the board's prompt compliance with the order. The
 631 department shall monitor a board's efforts to comply with an
 632 administrative order and shall issue a written determination of
 633 whether the board has complied with the department's order. Upon
 634 receipt of a notice of intended non-compliance or upon the
 635 department's determination that a board has failed to properly
 636 perform board duties in accordance with an administrative order,
 637 the department shall take such action as it deems necessary
 638 pursuant to s. 195.092.

639 (3) Chapter 120 does not apply to this section.

640 Section 7. Subsection (2) of section 194.034, Florida
 641 Statutes, is amended to read:

642 194.034 Hearing procedures; rules.-

643 ~~(2) In each case, except if the complaint is withdrawn by~~
 644 ~~the petitioner or if the complaint is acknowledged as correct by~~

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645 ~~the property appraiser, the value adjustment board shall render~~
 646 ~~a written decision. All such decisions shall be issued~~ The value
 647 adjustment board shall issue all of its written final decisions
 648 within 20 calendar days after the last day the board is in
 649 session under s. 194.032. ~~The decision of the board must contain~~
 650 ~~findings of fact and conclusions of law and must include reasons~~
 651 ~~for upholding or overturning the determination of the property~~
 652 ~~appraiser. If a special magistrate has been appointed, the~~
 653 ~~recommendations of the special magistrate shall be considered by~~
 654 ~~the board.~~ The clerk, upon issuance of a final decision, shall,
 655 on a form provided by the Department of Revenue, notify by
 656 first-class mail each taxpayer and the property appraiser of the
 657 decision of the board. If requested by the Department of
 658 Revenue, the clerk shall provide to the department a copy of the
 659 decision or information relating to the tax impact of the
 660 findings and results of the board as described in s. 194.037 in
 661 the manner and form requested.

662 Section 8. Section 194.035, Florida Statutes, is amended
 663 to read:

664 194.035 Special magistrates; property evaluators.—

665 (1) (a) In counties having a population of more than
 666 75,000, the board shall appoint special magistrates, by
 667 individual written contract, for the purpose of taking testimony
 668 and making recommendations to the board. ~~which recommendations~~
 669 ~~the board may act upon without further hearing.~~ Each contract
 670 between the board and a special magistrate must specify duties,
 671 standards of conduct, and performance standards for the special
 672 magistrate. A special magistrate shall not advocate for the

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673 | ~~board or~~ a taxing authority, but rather the special magistrate's
 674 | duty shall be to support the laws of the State of Florida and to
 675 | support the board-related activities necessary for promoting and
 676 | maintaining a high level of public trust in the value adjustment
 677 | board process. Such public trust requires ethical behavior,
 678 | fairness, consistency, competence, transparency, and uniform
 679 | application of the law. Each special magistrate shall adhere to
 680 | the ethics provisions in chapter 112, part III, the open
 681 | government provisions in section 286.011, the provisions on
 682 | taxpayer rights as referenced in section 192.0105, the
 683 | provisions of chapter 194, parts I and III, and to all other
 684 | applicable law. A special magistrate shall not allow the amount
 685 | of property tax involved in any petition or decision to
 686 | influence the proper outcome under the law. These special
 687 | magistrates may not be elected or appointed officials or
 688 | employees of the county but shall be selected from a list of
 689 | those qualified individuals who are willing to serve as special
 690 | magistrates. Employees and elected or appointed officials of a
 691 | taxing jurisdiction or of the state may not serve as special
 692 | magistrates. The clerk of the board shall annually notify such
 693 | individuals or their professional associations to make known to
 694 | them that opportunities to serve as special magistrates exist.
 695 | The Department of Revenue shall provide a list of qualified
 696 | special magistrates to any county with a population of 75,000 or
 697 | less. Subject to appropriation, the department shall reimburse
 698 | counties with a population of 75,000 or less for payments made
 699 | to special magistrates appointed for the purpose of taking
 700 | testimony and making recommendations to the value adjustment

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701 board pursuant to this section. The department shall establish a
 702 reasonable range for payments per case to special magistrates
 703 based on such payments in other counties. Requests for
 704 reimbursement of payments outside this range shall be justified
 705 by the county. If the total of all requests for reimbursement in
 706 any year exceeds the amount available pursuant to this section,
 707 payments to all counties shall be prorated accordingly. ~~If a~~
 708 ~~county having a population less than 75,000 does not appoint a~~
 709 ~~special magistrate to hear each petition, the person or persons~~
 710 ~~designated to hear petitions before the value adjustment board~~
 711 ~~or the attorney appointed to advise the value adjustment board~~
 712 ~~shall attend the training provided pursuant to subsection (3),~~
 713 ~~regardless of whether the person would otherwise be required to~~
 714 ~~attend, but shall not be required to pay the tuition fee~~
 715 ~~specified in subsection (3).~~

716 (b)1. A special magistrate appointed to hear issues of
 717 exemptions and classifications shall be a member of The Florida
 718 Bar with no less than 5 years' experience in the area of ad
 719 valorem taxation and shall have annually completed the
 720 department's value adjustment board training and passed the
 721 corresponding training examination. An attorney special
 722 magistrate shall not be appointed and shall not serve
 723 simultaneously as board legal counsel or review special
 724 magistrate in any county, either during the same calendar period
 725 or during administrative reviews for the same tax year.

726 2. A special magistrate appointed to hear issues regarding
 727 the valuation of real estate shall be a state certified real
 728 estate appraiser with not less than 5 years' experience in real

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729 | property valuation and shall have annually completed the
 730 | department's value adjustment board training and passed the
 731 | department's corresponding training examination.

732 | 3. A special magistrate appointed to hear issues regarding
 733 | the valuation of tangible personal property shall be a
 734 | designated member of a nationally recognized appraiser's
 735 | organization with not less than 5 years' experience in tangible
 736 | personal property valuation and shall have annually completed
 737 | the department's value adjustment board training and passed the
 738 | department's corresponding training examination and shall have
 739 | provided to the board clerk sufficient evidence of having
 740 | completed at least 120 hours of professional coursework in
 741 | tangible personal property valuation of which at least 30 hours
 742 | was completed within the 5 year period preceding appointment.
 743 | Alternatively, a tangible personal property special magistrate
 744 | shall be a member of a nationally recognized appraisal
 745 | organization and have a nationally recognized professional
 746 | designation in tangible personal property valuation and shall
 747 | have annually completed the department's value adjustment board
 748 | training and passed the department's corresponding training
 749 | examination.

750 | (c) A special magistrate need not be a resident of the
 751 | county in which he or she serves. A special magistrate shall ~~may~~
 752 | not represent any property appraiser, tax collector, taxing
 753 | authority, or property taxpayer in any administrative or
 754 | judicial review of property taxes ~~a person before the board~~ in
 755 | any tax year during which he or she has served ~~that board~~ as a
 756 | special magistrate. Before appointing a special magistrate, a

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757 value adjustment board shall verify the special magistrate's
 758 qualifications. In the appointment of special magistrates and in
 759 the scheduling of special magistrates for hearings, the board,
 760 board attorney, and board clerk shall ensure that no
 761 consideration whatsoever is given to the dollar amount or
 762 percentage amount of any assessment reductions recommended by
 763 any special magistrate either in the current year or in any
 764 prior year. The value adjustment board shall ensure that the
 765 selection appointment of special magistrates and the scheduling
 766 of special magistrates for hearings is based solely upon the
 767 experience and qualifications of the special magistrate and is
 768 not influenced by the property appraiser. The special magistrate
 769 shall accurately and completely preserve the petition record
 770 including all testimony and documents ~~all testimony and, in~~
 771 ~~making recommendations to the value adjustment board, shall~~
 772 ~~include proposed findings of fact, conclusions of law, and~~
 773 ~~reasons for upholding or overturning the determination of the~~
 774 ~~property appraiser.~~

775 (d) The expense of hearings before magistrates and any
 776 compensation of special magistrates shall be borne three-fifths
 777 by the board of county commissioners and two-fifths by the
 778 school board.

779 (2) (a) A value adjustment board is authorized to appoint,
 780 by written contract, a qualified review special magistrate for
 781 the purpose of assisting the board with reviewing written
 782 recommended decisions to determine whether such decisions comply
 783 with law. A contract between the board and a review special
 784 magistrate must specify duties, standards of conduct, and

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785 performance standards for the review special magistrate. If a
 786 board elects not to appoint a review special magistrate, the
 787 board attorney shall assist the board with such reviews. A
 788 review special magistrate shall be a member of The Florida Bar
 789 with no less than 5 years experience in the area of ad valorem
 790 taxation and shall have completed the department's training and
 791 passed the training examination for the type of special
 792 magistrate that produced the recommended decisions to be
 793 reviewed by the review special magistrate. A review special
 794 magistrate shall not be appointed and shall not serve
 795 simultaneously as the board attorney or attorney special
 796 magistrate, in any county, either during the same calendar
 797 period or during administrative reviews for the same tax year. A
 798 review special magistrate shall not represent any property
 799 appraiser, tax collector, taxing authority, or property taxpayer
 800 in any administrative or judicial review of property taxes and
 801 shall not have done so in the two year period preceding
 802 appointment.

803 (b) A review special magistrate shall not advocate for the
 804 board or a taxing authority, but rather the review special
 805 magistrate's duty shall be to support the laws of the State of
 806 Florida and to support the board-related activities necessary
 807 for promoting and maintaining a high level of public trust in
 808 the value adjustment board process. Such public trust requires
 809 ethical behavior, fairness, consistency, competence,
 810 transparency, and uniform application of the law. Each review
 811 special magistrate shall adhere to the ethics provisions in
 812 chapter 112, part III, the open government provisions in section

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813 286.011, the provisions on taxpayer rights as referenced in
 814 section 192.0105, the provisions of chapters 194, parts I and
 815 III and to all other applicable law. A review special magistrate
 816 shall not allow the amount of property tax involved in any
 817 petition or decision to influence the proper outcome under the
 818 law.

819 (23) The value adjustment board of each county may employ
 820 qualified property appraisers or evaluators to appear before the
 821 value adjustment board at that meeting of the board which is
 822 held for the purpose of hearing complaints. Such property
 823 appraisers or evaluators shall present testimony as to the just
 824 value of any property the value of which is contested before the
 825 board and shall submit to examination by the board, the
 826 taxpayer, and the property appraiser.

827 ~~(3) The department shall provide and conduct training for~~
 828 ~~special magistrates at least once each state fiscal year in at~~
 829 ~~least five locations throughout the state. Such training shall~~
 830 ~~emphasize the department's standard measures of value, including~~
 831 ~~the guidelines for real and tangible personal property.~~
 832 ~~Notwithstanding subsection (1), a person who has 3 years of~~
 833 ~~relevant experience and who has completed the training provided~~
 834 ~~by the department under this subsection may be appointed as a~~
 835 ~~special magistrate. The training shall be open to the public.~~
 836 ~~The department shall charge tuition fees to any person attending~~
 837 ~~this training in an amount sufficient to fund the department's~~
 838 ~~costs to conduct all aspects of the training. The department~~
 839 ~~shall deposit the fees collected into the Certification Program~~
 840 ~~Trust Fund pursuant to s. 195.002(2).~~

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841 Section 9. (1) The sum of \$208,369 in nonrecurring funds
 842 from the General Revenue Fund is appropriated to the Department
 843 of Revenue for the 2012-2013 fiscal year to implement the
 844 provisions of this act.

845 (2) The sum of \$326,782 in recurring funds and \$18,810 in
 846 nonrecurring funds from the General Revenue Fund and five full-
 847 time equivalent positions and associated salary rate of \$225,038
 848 are appropriated to the Department of Revenue for the 2013-2014
 849 fiscal year to implement the provisions of this act.

850 Section 10. This act shall take effect July 1, 2013.